**OFFICER REPORT – DELEGATED**

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| **Application number: P/16/084/FUL** | **Expiry date: 7 October 2016** |
| **Received on: 12 August 2016** | **Neighbour expiry date: 2 September 2016** |
| **UPRN: 000192002654** | **Consultation expiry date:** |
| **Legal agreement:** | **Site notice posted: 12 August 2016** |
| **Departure:** | **Site notice expiry: 2 September 2016** |
| **Complies with Development Plan? Y/N If not, ensure you cover in the report how material considerations outweigh the plan?** |  |
| **Is this decision contrary to local council recommendation?** | |

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| **Applicant:** | **Mr Eric Hicks** |
| **Site Address:** | **White Cottage Chalet**  **Porthloo**  **St Mary's**  **Isles Of Scilly** |
| **Proposal:** | **Resubmission application to replace 2 bedroom chalet with 2 bedroom cottage (previously refused application P/16/035/FUL)** |
| **Application Type:** | **Planning Permission** |

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| **Description of site and development:** |

This is a resubmission application for the demolition of the existing 2-bedroom timber chalet and replacement with a two-bedroom cottage. The proposed dwelling will be a granite and render construction with a slate roof and timber doors and windows. The position of the dwelling will not be on the same footprint but on a new position further forward on the plot. P/16/035/FUL was previously refused for the following reason:

*Without the use of a restrictive legal agreement to control occupancy to meet a recognised local need or to accommodate a key worker, the creation of a new replacement open market dwelling, that is significantly and materially larger to the current building, is contrary to Policy 3 of the Isles of Scilly Local Plan 2005. Consequently, the proposed dwelling is not considered to be a socially sustainable form of development as required by Paragraphs 7 and 8 of the National Planning Policy Framework 2012.*

**Site Description**

White Cottage Chalet was originally a shed to the front of White Cottage. The applicant secured a Certificate of Lawful Use for its construction and occupation as a separate dwelling in 2015. The chalet is a low quality timber construction that has evolved over the years to form a two bedroom unit of accommodation. It has a low-rise shallow pitched roof with gables facing south west and north east, tucked up against a hedge to the front of the main dwelling. The main entrances to the building faces south east into the front garden of White Cottage. The plot is surrounded to the front and side boundaries with high Pittosporum hedgerows.

**Background and Relevant History**

In relation to the dwelling known as White Cottage, planning records start in 1959 when a planning application (P0253) was approved for the addition of kitchen and bathroom to existing cottage. In 1990 an application (P3022) was approved for alterations to living accommodation and fenestration. In 2004 an application (P5591) was refused for the erection of Swimming Pool and Enclosure. Later in the same year a further application (P5615) was refused for the erection of swimming pool and enclosure. In 2005 a further application (P5667) was made and later withdrawn for the erection of swimming pool and enclosure. Later in the same year an application (P5696) for the same development including an office was refused. In 2006 an application (P/06/074) was approved for the demolition of existing lean-to garage and erection of detached garage. In 2007 an application was made for a certificate of lawful use (P/07/133) for use of flat as a dwellinghouse. The certificate was granted. In 2011 an application (P/11/005/FUL) was refused for an amendment to rear and side ground floor extension. In 2013 an application (P/13/072/FUL) was approved for the replacement of a flat roof with pitched roofs. In 2014 and application was submitted (P/14/039/CLE) and refused for a Lawful Development Certificate for the use of an existing structure as an independent residential dwelling. Finally in 2014 a resubmission Certification application was submitted (P/14/062/CLE) for use of the building as dwelling. This was also refused. Following a subsequent appeal through which the applicant submitted significantly more information, the Planning Inspector granted a Certificate of Lawful Use for the structure as an independent dwelling. The structure, known as White Cottage Chalet, is now an unrestricted independent dwelling. Earlier in 2016 application P/16/035/FUL was submitted for a replacement dwelling and refused at Planning Committee in May 2016.

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| **Public representations:** |

All neighbouring properties sharing a boundary with the site have been written to directly and a site notice has be placed in a public location within the vicinity of the site for a period of 21 days. No representations have been received.

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| **Consultee representations:** |

NONE

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| **Constraints and designations:** |

Conservation Area, AONB and Heritage Coast

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| **Relevant policies, SPGs and Government guidance:** |

**National Planning Policy Framework (NPPF) 2012**

At the heart of the NPPF is a presumption in favour of sustainable development. The NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. It is highly desirable that local planning authorities should have an up-to-date plan in place. It is considered that paragraph 10 is critically important in relation to areas such as the Isles as Scilly as “plans and decisions need to take local circumstances into account, so that they respond to the different opportunities for achieving sustainable development in different areas”.

Paragraph 14 of the NPPF states that in making planning decisions, a Local Planning Authority should be approving development proposals that accord with the development plan without delay; and where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies [in the NPPF] taken as a whole; or specific policies [in the NPPF] indicate development should be restricted.

Paragraph 49 of the NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.

Whilst paragraph 51 advocates that the re-use of redundant buildings particularly for changes to residential use and any associated development from commercial buildings (currently in the B use classes) where there is an identified need for additional housing in that area, it is also important to consider the advice for development in rural areas, as set out in paragraph 55. This seeks to ensure that in rural areas sustainable development is promoted and that houses are located where it will enhance or maintain the vitality of rural communities.

Overall and as the NPPF makes clear the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 6 of the NPPF makes it clear that this is a multi-dimensional issue that includes a consideration of the economic, social and environmental aspects of a proposal. Here social sustainability is defined as “supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community’s needs and support its health, social and cultural well-being”.

Paragraph 115 states that great weight should be given to conserving landscape and scenic beauty in Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty”.

**2005 Isles of Scilly Local Plan**

Although the current Local Plan was adopted in late 2005 and therefore pre-dates the NPPF, it is worth recognising that the circumstances on the islands have not changed significantly given its scale and nature and the intrinsic value of its environment. The Local Plan therefore provides a planning policy framework that values the natural and historic environment and recognises the limited development opportunities by encouraging sustainable development and the delivery of homes for the community in response to the acute housing difficulties.

Policy 1 relates to Environmental Protection and aims to ensure that the quality of the islands environment, including its natural and historic character, is maintained and enhanced. The overall intent of the Local Plan, as reflected in Policy 1, is to protect its environment and keep development to the minimum required for sustaining viable communities.

Policy 2 relates to Sustainable Development and requires proposals to positively relate to the character of the landscape, seascape and built form of the islands through relationship to, inter alia, siting, design and use of materials.

Policy 3 of the Local Plan does not permit any new general open market housing on the Isles of Scilly. Specifically, Criterion (2) of Policy 3 states that residential development will only be permitted where it is required to meet an identified and recognised local need or key worker whose needs cannot be met by the existing housing stock to ensure that suitable housing is available to meet the long term needs of the community.

Of critical consideration is that all new dwellings that come forward through the planning system must be restricted to meeting the housing needs of the community who are unable to rent or buy a home appropriate to their circumstances in the local market. Criterion (3) of Policy 3 specifies that all new residential development will be subject to secure arrangements to ensure that it remains permanently available to meet the specific identified need that justified its original permission.

**Isles of Scilly Local Plan Review 2015 – 2030**

As part of the progress to update the 2005 Local Plan the Local Planning Authority (LPA) have commenced a review of the evidence base. This process has included a consultation on the intention to review the local plan (Regulation 18) setting out key issues such as housing. This consultation took place during June and July 2015. In November 2015 the LPA commissioned consultants David Couttie Associates (DCA) to carry out a Strategic Housing Market Assessment (SHMA), which included a Housing Survey of all residents as well as a detailed analysis of national statistics and trends for the islands. This assessment was published in July 2015. Additionally since 2014 the LPA have been working on housing land supply and commenced a Strategic Housing Land Availability Assessment (SHLAA). These two critical pieces of evidence will inform the Local Plan review and support the calculation of a 5 year housing land supply.

The SHMA set out a clear housing 'need' over the plan period for 120 new homes that should be delivered through the planning process. The 2016 SHLAA has identified potential housing sites across St Mary's that could accommodate between 165 (lower density) and 215 (higher density) new homes (excluding discounted sites). The sites that make up the SHLAA have primarily been submitted by the Duchy of Cornwall, as principle landowner on the islands, and include a few sites identified by the Council. The SHMA provides the evidence that the new Local Plan will need to create a positive policy framework for the delivery of a minimum of 8 new homes per year just to meet the most basic housing needs of the community. In reality, however in order to achieve viable sites this is likely to be higher. In very simple terms the sites within the SHLAA demonstrate sufficient potential housing land at the minimum density to deliver 11 new residential units per year or, at the higher density calculation, 14.3 new units per year. The LPA are satisfied that there is a demonstrable 5 year housing land supply.

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| **Appraisal/key issues and conclusion:** |

The principal planning issue for consideration is whether a completely newly constructed dwelling in place of a modest chalet is in accordance with current planning policy framework for the Isles of Scilly. The starting point for such consideration is the current Local Plan. It is critical therefore that the proposal complies with Policy 3 of the Local Plan. Additionally it is essential to assess whether the proposed dwelling will have any negative impacts upon the wider landscape including the character of the conservation area and scenic and natural beauty of the AONB and Heritage Coast designations. It is critical that the proposal does not give rise to any harm to the natural and historic environment, including that of designated heritage assets. It is a material planning consideration to assess the impact upon neighbouring land uses and the privacy and amenity of adjacent residential properties. Finally the proposal should not give rise to any issues of highway safety or impact upon protected species.

The applicant has sought to address the previous reason for refusal on the basis that it is not a new residential development but a replacement dwelling. A consistency with this application and an unencumbered decision made by Planning Committee for a replacement dwelling for South Tinks at Holy Vale should be reached. The plans however, with the exception of a small sunroom, remain identical to the previously refused application.

**Principal of a New Dwelling**

The proposed dwelling is a completely new construction to replace a timber chalet of two bedrooms. The replacement dwelling proposes an increase in footprint by 128% (an increase from the current 42 square metres to 96 square metres) and an increase in volume by 302% (an increase from the 105 cubic metres to 422 cubic metres). Although the chalet is an unrestricted unit of accommodation, the dwelling proposed to replace the chalet is materially larger in construction and scale and sited on a different footprint.

The current Local Plan does not permit any general open market housing on the islands to ensure that any housing that comes forward through the planning system is available to meet the needs of the community in perpetuity. This is justified on the basis that a proportion of the existing housing stock, that has no occupancy restrictions, is lost to the second home or holiday let market and commands a valuation in excess of what is affordable to most local people, and as such it has been necessary to retain this position even without the identification of a 5 year housing land supply. The granting of planning permission for general open market residential accommodation therefore compounds the housing issues of the islands.

The National Planning Policy Framework (NPPF) makes it clear that the starting point for decision making is the Local Plan with the NPPF being a material consideration in determining planning applications. The NPPF also makes it clear that that there is a presumption in favour of sustainable development, which for decision-making means approving development that accords with the development plan without delay and, where the development is absent, silent or relevant policies are out of date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies contained in the NPPF taken as a whole; or specific policies in the NPPF indicated development should be restricted.

As set out in the NPPF there are three dimensions to sustainable development: economic, social and environmental. The 'social role' is about supporting a strong, vibrant and healthy community by providing a supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the communities needs and support its health, social and cultural well-being. Having regard to this aspect of sustainable development, it is considered that a general 'open market' house, as proposed, would result in the construction of a new dwelling that is beyond the means of most local people and would therefore conflict with the main aim of Policy 3, which is to ensure that suitable housing is available to meet the long term needs of the community. To meet this aim, Policy 3 (3) specifically requires all new residential development to be subject to secure arrangements to ensure that it remains permanently available to meet the specific identified need that justified its original permission. This requirement remains highly relevant in the context of the acute affordability issues and ensures any new housing is sustainable from a social perspective.

It is considered that the principle of a new dwelling is acceptable providing the applicant is agreeable to the new property being subject to occupancy restrictions to ensure it is available to meet a local housing need only and prevent its sale on the 'open market'. It is considered that in respect to the control of housing, Policy 3 of the Local Plan remains up to date. Officers would argue that allowing an open market dwelling in place of the existing small chalet would not amount to sustainable development in the absence of any occupancy restrictions as advocated in the NPPF, as it would not constitute development that provides a supply of housing required to meet the needs of present and future generations of the local community. In this respect and without occupancy restrictions, the principle of a new dwelling would not be acceptable as it would not be sustainable development. As the applicants have set out a clear case for not wishing to be restricted by a Section 106 Legal Agreement, the principle the open market dwelling proposed is unacceptable.

**Principle of the Proposed Design**

As identified above, the proposed dwelling is a granite/render construction, 3 bay, two storey dwelling with a front porch, central rear dormer window and a single storey side extension sunroom. The design and scale of dwelling proposed is considered to be acceptable and in keeping with the character of traditional buildings of the islands. The position fronts Porthloo Lane and is enclosed to all sides by mature high hedgerows. Whilst it will create a form of 'tandem' development it is considered that the position would be acceptable. It is considered that removal of the chalet should be secured, prior to any development starting on site, by condition, to ensure that the existing structure is removed, should members be minded to approve the application.

**Impact upon the historic environment**

The application site is located at Porthloo on the island of St Mary's and whilst there is a high density of designated heritage assets on the islands there are no listed buildings or scheduled monuments either within the site or within a radius of 250 metres. There are a number of Archaeological Constraint Areas (ACA) and Historic Environment Records (HER) in the vicinity of the site but none within the site boundary of the proposed dwelling.

90 metres to the south of the site is Porthloo ACA, 160 metres to the north east is a HER of a Modern Pillbox and 180 metres to the north east of Newford Island, where there is a Scheduled Monument of Civil War Breastwork and battery. None of these heritage assets would be affected by the proposed development. Approximately 140 metres to the south of the proposed site is a further HER record of a ploughed-out field system likely to be associated with a nearby surviving bulb strip system and approximately 300 metres further to the south east is a Grade II listed building of a glasshouse and packing shed at Rocky Hill Farm. It is considered that due to the position and the enclosed nature of the site, the proposed dwelling will not have a detrimental impact upon any designated or undesignated heritage assets.

Whilst the foundations and footings of the proposed dwelling could reveal below ground archaeological remains at this site, there is very little known evidence in the vicinity to suggest there is a probability that digging at this site would reveal previously unknown remains at this site. Additionally the nearby HER records of a ploughed-out field system suggests that any archaeological remains are likely to have been disturbed or lost through modern ploughing methods. It would appear from maps that this site was a former bulb-strip system field. It is therefore considered that the impact upon archaeology is likely to be acceptable.

**Impact upon the Natural Environment**

The Isles of Scilly have a number of important environmental designations, including Special Areas of Conservation (SAC), Special Protection Areas (SPA) and Sites of Special Scientific Interest (SSSI). The SAC is a strictly protected marine designation under the EC Habitats Directive. The Isles of Scilly Complex forms part of the European network of important high quality conservation sites that make a significant contribution to conserving the 189 habitat types and 788 species of plants and animals. The sites selected around the coastal waters of Scilly encompass extensive sandy sediments between the islands that are contiguous with the intertidal sandflats. The proposed development will not have an impact upon the SAC marine designation around St Mary's. There are no SPA areas on St Mary's.

The nearest designation is Porthloo SSSI which is located approximately 175 metres to the north west of the proposed site. This is a 0.66 hectare site that runs along a section of the coast at Porthloo on the west side of St Mary's. It is a site designated for the protection of its geological significance. Its condition is identified as 'favourable' with no identified threats. The proposed dwelling will not have any impact upon this SSSI designation. An Environmental Impact Assessment Screening Opinion has been carried out by Officers. Based on the scale and nature of the proposed building and proximity from nearby natural environmental designations it is considered that an Environmental Impact Assessment or Appropriate Assessment in this case are not required.

**Impact upon residential amenity**

The proposed dwelling will replace an existing single storey timber chalet. The chalet has no views outside the existing garden, due to its position and scale. The proposed two storey dwelling will have windows on all sides at both ground and first floor including the roof. Situated approximately 30 metres to the south of Rope Walk and 35 metres to the south west of White Cottage and 60 metres to the north east of Glandore, it is considered that the position of proposed dwelling will not give rise to any harm upon existing neighbouring or nearby residential properties.

**Impact upon Highway Safety**

The existing site benefits from an existing shared access that serves White Cottage, Samson House and the Rope Walk. This access has restricted visibility in both directions which is directly opposite Porthloo Boat Park access road. The introduction of a further single dwelling, in place of a chalet, in unlikely to give rise to any issues of highway safety. The existing access, as a result of the proposal, will provide a point of vehicular access for 4 dwellings, which is considered to be an acceptable increase (from a drive way serving 3 to a driveway serving 4 dwellings). However, the visibility sightlines could be improved through the reduction in boundary hedges to the front of this site. This requirement could conditioned and would be recommended if Members are minded to approve this application.

**Sustainability Issues**

All new development should be 'sustainable' as required by both Policy 2 of the Isles of Scilly Local Plan and the NPPF. Fundamentally sustainable development is about positive growth, making economic, environmental and social progress for the present and future generations. The NPPF makes it clear that where development is sustainable is should be permitted without delay. It is therefore important to consider whether the proposed development is sustainable. Policy 2 requires that development proposals contribute to the sustainability of the islands' environment, economy or local communities through (a) conserving and enhancing landscape, coastline, seascape and existing buildings of the islands through appropriate design including siting, layout, density, scale, external appearance and landscaping; (b) ensuring or facilitating the re-use of previously developed land and existing buildings for the economic, social and environmental benefit of the islands and local communities taking into account any environmental designations; and (c) utilising natural resources efficiently in the design, construction and future use of land and buildings, including where appropriate energy conservation and the use of renewable sources of energy generation, minimising the consumption and discharge of water and waste and by securing the recovery and re-use of suitable building materials.

From the above assessments it is concluded that proposed dwelling will conserve the wider landscape as a result of the appropriate siting and design of the dwelling. The details submitted, however, do not make any claims of being a low-carbon or carbon-neutral form of development. There are, however, no policies that require development on the islands to be of a measurable or definable sustainability standard, such as the Code for Sustainable Homes (which was withdrawn in March 2015). The Code for Sustainable Homes standard has been replaced by new national technical standards which comprise new additional optional Building Regulations. Whilst compliance with the Building Regulations is not a consideration for the determination of a planning application it is possible that the new 'optional' Building Regulations Standards can be required by a planning permission. This can include a requirement to build a property to higher standards for water consumption, sanitary conveniences for example. Such higher environmental standards, however, can only be required by condition, if the Local Plan specifically requires new development to be constructed to the new higher standards. Such policies should only be included in a local plan if they address a clearly evidenced need and where their impact on viability has been considered.

Whilst it is likely that the building will be constructed from new materials, this is a long-term structure that will, in the long-term, be an environmentally sustainable form of development. In order to understand what potential water and energy reducing measures could be incorporated into the design of the dwelling, it is recommended that a condition be imposed to submit these details, if Members are minded to approve the application. It is considered that the proposal, subject to this condition, has the potential to be a sustainable for of development, in terms of environmental sustainability of the current local planning policy framework.

**Conclusion**

Drawing on all of the above considerations it is considered that on balance the proposed open market dwelling would not be in accordance with Policy 3 of the Local Plan or the National Planning Policy Framework in terms of a socially sustainable form of development in accordance with paragraphs 7 and 8 of the NPPF 2012.

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| **Recommendation:** |

Refuse

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| **Reason(s) for Refusal:** |

Without the use of a restrictive legal agreement to control occupancy to meet a recognised local need or to accommodate a key worker, the creation of a new replacement open market dwelling, that is significantly and materially larger to the current building, is contrary to Policy 3 of the Isles of Scilly Local Plan 2005. Consequently, the proposed dwelling is not considered to be a socially sustainable form of development as required by Paragraphs 7 and 8 of the National Planning Policy Framework 2012.

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| Signed  Planning Officer: | Date: | Signed  Senior Manager: | Date |
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